

LFC Requester:	Eric Chenier
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**AGENCY BILL ANALYSIS
2016 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

and

DFA@STATE.NM.US

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:

Original X **Amendment**
Correction **Substitute**

Date 2/3/2016

Bill No: SB 278

Sponsor: Jacob Candelaria

Agency Code: 305

Short Drug & IV Medical Necessity

Person Writing Patricia Padrino Tucker

Title: Appeals

Phone: 505-222-9082 **Email** ptucker@nmag.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY16	FY17		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY16	FY17	FY18		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY16	FY17	FY18	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE**BILL SUMMARY**

This analysis is neither a formal Attorney General's Opinion nor an Attorney General's Advisory Letter. This is a staff analysis in response to an agency's, committee's, or legislator's request.

Synopsis:

SB 278 amends the Health Maintenance Organization Act, Section 59A-46-2, NMSA 1978, to include a definition of "adverse determination of medical necessity." SB 278 also includes new material allowing for an immediate external appeal to the Superintendent of Insurance of an adverse determination of medical necessity relating to coverage for prescription drugs.

FISCAL IMPLICATIONS

No fiscal impact for the Office of the Attorney General.

However, SB 278 will have a fiscal impact on the Office of Superintendent of Insurance because the bill will require the superintendent or appointed hearing officer of the superintendent to review any adverse determination of medical necessity relating to coverage for a prescription drug if requested by an enrollee under the Health Maintenance Organization Act. These additional hearings will require additional resources and time investment from the Office of Superintendent of Insurance.

SIGNIFICANT ISSUES

SB 278 calls for review of the record and preparation of findings of fact, conclusions of law and a recommendation by the superintendent, at page 9, lines 2-5. This subsection proceeds to allow the superintendent or hearing officer to review and dissent from its own decision, at page 9, lines 5-7. It is unclear if this process contemplates two separate stages with separate reviews.

PERFORMANCE IMPLICATIONS

N/A

ADMINISTRATIVE IMPLICATIONS

N/A

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None.

TECHNICAL ISSUES

N/A

OTHER SUBSTANTIVE ISSUES

SB 278 calls for a “recommendation regarding a finding of medical necessity from a health care provider who: 1) has not previously reviewed the matter under review; and 2) is of the same or a similar specialty as the health care provider who would typically manage the medical or dental condition, procedure or treatment for which the prescription drug under review in the appeal was prescribed.” It is unclear who will be responsible for payment to this health care provider.

There may also be some confusion with regard to timelines. While it appears there is a specific timeline for both the insurance carrier and the Office of Superintendent of Insurance, the only guidance for the enrollee is language allowing a request “immediately upon receipt of...an adverse determination.” It is unclear when an enrollee would lose his or her right to make such a request.

ALTERNATIVES

N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

None.